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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

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Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the forty-first report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, which was submitted pursuant to General Assembly resolution 63/95.

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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Summary

The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories is composed of three Member States: Sri Lanka (Chairman), Malaysia and Senegal. This year, owing to the absence of the Chairman of the Committee, the Ambassador of Sri Lanka to the United Nations in New York, the Ambassador of Malaysia in New York has functioned as the Acting Chair of the Special Committee.

The present, forty-first, report to the General Assembly reflects the substance of the information gathered during the mission of the Special Committee to the Arab Republic of Egypt, the Hashemite Kingdom of Jordan and the Syrian Arab Republic from 3 to 13 August 2009. In these three countries, the Committee interviewed 33 Palestinian, Israeli and Syrian witnesses and representatives of non-governmental organizations. The Committee also reviewed numerous relevant documents and research materials, including a written submission by the Ministry for Foreign Affairs of the Syrian Arab Republic.

The present report consists of several sections. Most significantly, section V sets out information concerning the human rights situation in the occupied territories. Section VI constitutes an overview of Israeli practices affecting the human rights of Syrian Arab citizens in the occupied Syrian Golan; and section VII presents the conclusions of the report and the recommendations of the Special Committee to the General Assembly.

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I. Introduction

1. The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories was established in 1968 by the General Assembly in its resolution 2443 (XXIII). The Committee is composed of three Member States: Malaysia (represented by the Permanent Representative of Malaysia to the United Nations in New York, Hamidon Ali); Senegal (represented by the Permanent Representative of Senegal to the United Nations Office at Geneva, Babacar Carlos Mbaye), and Sri Lanka (represented by the Counsellor of the Permanent Mission of Sri Lanka to the United Nations in New York, Samantha Jayasuriya). The reports of the Committee are submitted to the General Assembly and reviewed in the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly.

II. Mandate

2. The mandate of the Special Committee, as set out in resolution 2443 (XXIII) and subsequent resolutions, is to investigate Israeli practices affecting the human rights of the population of the occupied territories. The occupied territories are considered to be those territories remaining under Israeli occupation, namely, the occupied Syrian Arab Golan and the Occupied Palestinian Territory, which comprises the West Bank, including East Jerusalem, and the Gaza Strip. The persons covered by resolution 2443 (XXIII), and therefore the subject of the investigation of the Special Committee, are the civilian population residing in territory occupied during the course of the 1967 Arab-Israeli War.

3. The human rights of the Palestinian people and other Arabs of the occupied territories are those referred to by the Security Council in its resolution 237 (1967) as "essential and inalienable human rights" and those rights that find their basis in the protection afforded by international law, in particular in circumstances such as military occupation and, in the case of prisoners of war, captivity.

4. The "policies" and "practices" affecting human rights that fall within the mandate of investigation by the Special Committee refer, in the case of "policies", to any course of action consciously adopted and pursued by the Government of Israel as part of its declared and undeclared intent. "Practices" refers to those actions that, irrespective of whether or not they were undertaken pursuant to a policy, reflect a pattern of behaviour on the part of the Israeli authorities towards the civilian population in the occupied areas.

5. The Special Committee bases its work on the human rights standards and obligations enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenant on Civil and Political Rights,[1] the International Covenant on Economic, Social and Cultural Rights,[2] the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (the Fourth Geneva Convention),[3] the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949 (the Third Geneva

[1] General Assembly resolution 217 A (III).

[2] See General Assembly resolution 2200 A (XXI), annex.

[3] United Nations, *Treaty Series*, vol. 75, No. 973.

Convention),[4] the Hague Convention of 14 May 1954 for the Protection of Cultural Property in the Event of Armed Conflict,[5] and the Hague Conventions of 1899 and 1907 concerning the Laws and Customs of War on Land.[6] The Committee also relies on those resolutions relevant to the situation of civilians in the occupied territories adopted by the General Assembly, the Security Council, the Economic and Social Council and the Human Rights Council.

6. In its resolution 63/95, the General Assembly requested the Special Committee to continue to investigate Israeli policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967. It also directed the Committee to consider Israeli violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949; to consult, as appropriate, with the International Committee of the Red Cross (ICRC) according to its regulations, in order to ensure that the welfare and human rights of the peoples of the occupied territories are safeguarded; and to report to the Secretary-General as soon as possible and whenever the need arises thereafter. Finally, the Assembly directed the Committee to continue to investigate the treatment of the thousands of prisoners and detainees in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967. The Committee is not mandated to review the practices of other Members States, including the Israeli practices within the territory of Israel.

III. Activities of the Special Committee

Field mission of the Special Committee to the Middle East

7. In preparation for its field mission to the Middle East, the Special Committee addressed a letter on 4 May 2009 to the Permanent Representative of Israel to the United Nations Office at Geneva, requesting full access to the occupied territories in order to fulfil the responsibilities entrusted to it by the General Assembly in resolution 63/95. Regrettably, it received no response to its communication from the Israeli authorities.

8. Owing to the fact that it has been unable to visit the occupied territories since its establishment in 1968, the Special Committee carried out a mission to Egypt from 3 to 7 August 2009, Jordan from 7 to 11 August 2008, and the Syrian Arab Republic from 11 to 13 August 2009, where it heard the testimony of 33 witnesses about the situation of human rights in the occupied territories. The Committee sought to consider all views pertinent to the situation affecting the human rights of the Palestinians and other Arabs in occupied territories. To that end, it extended invitations to Palestinian, Israeli and Syrian witnesses and organizations, and made every possible effort to facilitate their appearance before the Committee. It also interviewed several witnesses over the telephone. During the preparation of this report, the Committee reviewed all written statements, documentation and other materials submitted to it.

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[4] Ibid., vol. 75, No. 972.

[5] Ibid., vol. 239, No. 3511.

[6] See Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915).

9. The Special Committee also met government representatives, representatives of regional and intergovernmental organizations, representatives of Red Crescent societies, United Nations officials and experts from specialized United Nations agencies. The Committee is particularly grateful for the opportunity to have met with, among others, the Minister for Foreign Affairs of Egypt, Ahmed Aboul Gheit, the Minister for Foreign Affairs of Jordan, Nasser Joudeh, the Minister for Foreign Affairs of the Syrian Arab Republic, Walid al-Moualem, and Deputy Minister for Foreign Affairs of the Syrian Arab Republic, Faysal Mekdad.

10. In Cairo, the Special Committee visited the offices of the League of Arab States and met officials of the Egyptian Red Crescent Society, the Egyptian National Council for Human Rights, and the Palestine Hospital. While in the Syrian Arab Republic, the Committee met the acting United Nations resident coordinator and World Health Organization (WHO) Representative, Dr. Ibrahim A. Betelmal, and members of the United Nations country team. It also visited the city of Quneitra, where it met the governor of Quneitra Province, Nawaf al-Sheikh. While in Damascus, the Committee held a press conference.

11. The Special Committee expresses its gratitude to the offices of the United Nations resident coordinators in Egypt, Jordan and the Syrian Arab Republic for the valuable assistance extended to it in preparation for and during its visits to those countries.

12. The present report of the Special Committee is presented in accordance with General Assembly resolution 63/95.

IV. Recent developments

13. On 27 December 2008, the Israeli Defense Forces (IDF) launched a large-scale operation (Operation Cast Lead), in which over 1,200 Palestinians were killed and some 5,300 injured. At least 1,000 of the Palestinian killed were reported to have been civilians or police personnel, including the 255 policemen and officers killed during a single air raid at the start of the Israeli operation.[7] Official Israeli sources reported 14 Israeli dead as a result of rocket attacks by Hamas. Both IDF and Hamas declared unilateral ceasefires on 18 January. The situation following the ceasefire has remained volatile, with neither a peace process nor a peace plan in place.

14. To respond to concerns that Israel may be in violation of its obligations under international humanitarian law, in particular the principles of distinction and proportionality,[8] the Human Rights Council called for a special session on the situation in Gaza. At its ninth special session, the Human Rights Council adopted resolution S-9/1 (A/HRC/S-9/L.1), in which it recognized that "massive ongoing Israeli military operation in the Occupied Palestinian Territory, particularly in the occupied Gaza Strip, has caused grave violations of the human rights of the Palestinian civilians therein, exacerbated the severe humanitarian crisis in the

[7] See A/HRC/12/37.

[8] The principle of distinction essentially requires parties to a conflict to take all necessary measures to distinguish between the civilian population and combatants and between civilian objects and military objectives; the principle of proportionality prohibits the attacks if they cause incidental loss of civilian life, injury to civilians, or damage to civilian objects that is excessive in relation to the anticipated concrete and direct military advantage of the attack.

Occupied Palestinian Territory and undermined international efforts towards achieving a just and lasting peace in the region". While affirming the applicability of international humanitarian law, namely the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, as well as international human rights law and international humanitarian law in a complementary and mutually reinforcing manner, the Council, in its resolution S-9/1, recognized that the Israeli siege imposed on the occupied Gaza Strip, including the closure of border crossings and the cutting of the supply of fuel, food and medicine, constituted collective punishment of Palestinian civilians with disastrous humanitarian and environmental consequences.

15. In the light of resolution S-9/1, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk, submitted his report to the Human Rights Council on 11 February 2009. The report focused on international law and human rights issues arising from Operation Cast Lead during the period from 27 December 2008 to 18 January 2009. In the report, the Special Rapporteur concluded, inter alia, that the Palestinian rights of resistance under international law continually collide with Israeli security concerns as the occupying Power, requiring a basic adjustment in the relationship between the parties premised on respect for the legal rights of the Palestinian people.[9]

16. On 20 March, 10 special rapporteurs: the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Representative of the Secretary-General for Children and Armed Conflict, the Special Rapporteur on violence against women, its causes and consequences, the Special Representative of the Secretary-General on the human rights of internally displaced persons, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, the Special Rapporteur on the right to food, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right to education and the independent expert on the question of human rights and extreme poverty submitted a combined report to the Human Rights Council (A/HRC/10/22), calling on Israel to end the blockade of Gaza, allow unrestricted imports of medical supplies, foodstuffs and agricultural products, fuel and construction materials, grant permission for patients to access medical care, and ensure the free and unimpeded movement of civilians.

17. On 14 August 2009, as mandated by the Human Rights Council in its resolution S-9/1, the High Commissioner for Human Rights submitted to the Human Rights Council a report on grave violations of human rights in the Occupied Palestinian Territory, particularly due to the recent Israeli military attacks against the occupied Gaza Strip.[7] The report focuses, inter alia, on incidents of possible violations of international humanitarian and human rights law by IDF.

18. In addition to periodic reports, the Human Rights Council in its resolution S-9/1, also mandated the establishment of an international, independent fact-finding mission in order to "investigate all violations of international human rights law and

[9] See A/HRC/10/20.

international humanitarian law that might have been committed at any time in the context of the military operations that were conducted in Gaza during the period from 27 December 2008 to 18 January 2009, whether before, during or after".[10] Under the leadership of Justice Richard Goldstone, a former member of the South African Constitutional Court and former Chief Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda, the mission convened its first meeting on 4 May 2009 in Geneva. The four members of the mission have since held meetings with a broad cross-section of stakeholders, including United Nations Member States, non-governmental organizations and United Nations officials. The fact-finding mission has also carried out two separate missions to Gaza.

19. On 11 February 2009, the United Nations Secretary-General appointed a United Nations Board of Inquiry to review and investigate nine incidents affecting United Nations premises in Gaza that occurred during Operation Cast Lead. In its summary of findings, released on 5 May 2009, the Board of Inquiry found the Israeli forces to have been responsible for seven of the nine incidents; Hamas was found responsible for one of the incidents, while the findings for the ninth incident were reported to be inconclusive.

V. Situation of human rights in the Occupied Palestinian Territory

20. The situation of human rights in the Occupied Palestinian Territory was particularly affected by the Israeli Operation Cast Lead. According to the Palestinian Centre for Human Rights, the total death toll in Gaza during the offensive was 1,420, of whom 1,170 were non-combatants, including civilians and police officers not involved in military activities, 319 children and 111 women. Over 5,000 Palestinians were reported to have suffered severe injuries or permanent disabilities, including 1,600 children and 830 women.[11] A disproportionate number of civilians killed, including numerous instances of reported targeting of civilians and civilian objects,[7] led many witnesses to conclude that Israel deployed excessive use of force in defiance of international law and engaged in a war against civilians under the pretext of national security.

21. The Special Committee received a number of testimonies pertaining to the indiscriminate targeting of civilian objects by Israeli forces, including with white phosphorus munitions, which were reported to have caused severe injuries to the civilian population, while damaging or completely destroying civilian objects.[12]

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[10] United Nations fact-finding mission on the Gaza conflict, press release of 3 April 2009.

[11] See http://www.pchrgaza.org/.

[12] Like other lethal weapons, the use of white phosphorous munitions is regulated by the international humanitarian law and requirements set out in Protocol III of the Convention on Certain Conventional Weapons. The parties in conflict are required to discriminate between military objectives and civilians and civilian objects and refrain from attacks which cause disproportionate damage to civilians and to civilian objects. The use of white phosphorous weapons, including as air-dropped incendiary weapons, against any military objective within concentrations of civilians is prohibited, unless the military objective is clearly separated from the civilians.

22. During the course of the operation, over 3,000 private homes were reported to have been destroyed and over 20,000 homes, hospitals, schools, universities, factories, businesses and mosques damaged. According to the Office for the Coordination of Humanitarian Affairs, 250 schools and kindergartens were destroyed during the Israeli offensive. Several schools operated by the United Nations Relief and Works Agencies for Palestine Refugees in the Near East (UNRWA) came under attack, despite the fact that it had informed the Israeli authorities of their locations and the fact that they were used to shelter the fleeing civilian population. On 5 January 2009, Israeli rounds impacting at the Asma Elementary School killed three persons. On 6 January, Israeli fire struck the Jabalia Preparatory Boys School, instantaneously killing over 30 persons. The UNRWA main compound in Gaza was hit on 15 January, where as many as 700 Palestinians sought shelter. The Israeli Defence Minister subsequently apologized for the attack, calling it a "grave mistake".

23. During the Israeli offensive on the Gaza Strip, the Gaza borders with Israel and Egypt remained closed, effectively trapping the entire population of 1.5 million persons in a war zone, in contravention of all international humanitarian principles. Without the possibility to flee the fighting or to seek refuge, many witnesses stated that they felt trapped and imprisoned. Article 33 of the Fourth Geneva Convention states that "[n]o protected person may be punished for an offence he or she has not personally committed. Collective penalties are prohibited". During the first few weeks of the military activities, the access of international humanitarian assistance to Gaza was blocked.[13] Even before the offensive, some 85 per cent of the Gaza residents were reported to be dependent on humanitarian aid for survival.

24. Following the cessation of hostilities in January 2009, Israeli authorities additionally tightened the border control with Gaza and placed additional restrictions on the import of essential goods into Gaza, while bringing the export from Gaza to a minimum. The banning of exports deprived many families of much needed income. Restriction of movement across the border of Gaza for people and goods was described to the Special Committee as arbitrary, punitive and intended to frustrate the efforts of both the international humanitarian community and the local Palestinian population.

25. All crossings between the Gaza Strip and Israel remain closed, save for rare and exceptional cases, resulting in the creation of a prison-like situation for many Gazans. The formal economy has been by now almost completely replaced by illegal trade and smuggling that for many families is currently the only source of income or means to obtain essential goods. Faced with tight restrictions on the importation of food and medicine via Israel, Gazans rely on supplies smuggled in through the "underground tunnels". While the "tunnel economy" seems to cover basic needs in terms of food, medicine and medical equipment appear to be in chronic short supply.

26. Meanwhile, Israeli authorities continue with the expansion of settlements in the West Bank. The report of the Special Committee last year (A/63/273) noted how 87 per cent of the wall cuts well into the West Bank territory, outside the 1949 Green Line (the armistice line between Israel and the Jordanian-controlled West

[13] On 7 January, as a result of mounting international pressure, Israel and Hamas instituted three-hour-long ceasefires every, or every other, day to allow humanitarian convoys into Gaza.

Bank). Citing "natural growth", Israel continues to expand settlements, making no allowance for the natural growth to Palestinian families, who thus feel subjected to discriminatory treatment when it comes to land distribution, the awarding of property rights and land deeds or access to water.

27. Women are reported to be particularly affected by the occupation and Israeli settlement policy. The Committee was presented with a number of cases illustrating the challenges faced by Palestinian women, who, in fear of harassment at checkpoints or by settlers, increasingly feel unable to provide for their families or are simply too scared to move outside the boundaries of their communities.

28. Israel continues to detain Palestinians, including children, under the administrative detention regime and in incommunicado conditions for prolonged periods of time. Reports received by the Special Committee suggest that at least some detainees are subjected to ill treatment and degrading and humiliating treatment while in detention. The Committee is concerned that the interrogation and detention of security suspects is designed to humiliate the prisoners and that detention may give rise to ill treatment and torture, contrary to customary international law and Israel's obligations under international human rights law. The Committee is particularly concerned about the reports that indicate that detained Palestinian children and juveniles are not afforded appropriate treatment in accordance with the provisions and requirements set forth in the Convention on the Rights of the Child, to which Israel is a party.

29. Finally, the Special Committee was alerted to a situation affecting human rights defenders and the freedom of association and assembly. Organizations based in Israel but with operations and activities in the occupied territories informed the Committee of pressure on some of their Israeli members to cease their activities. They also reported to be facing increasing difficulties in gaining access to the occupied territories. Besides limiting the movements across checkpoints and border crossings, Israeli authorities are also reported to restrict the granting of visas for experts and human rights activists from abroad. Many Palestinian organizations, including student associations, in the West Bank and East Jerusalem, are considered illegal under Israeli law, which puts their members at risk of arrest and detention.

A. Right to self-determination

30. On 26 March, 2009, the Human Rights Council adopted resolution 10/20 on the right of the Palestinian people to self-determination, which, in line with the provisions of Articles 1 and 55 of the Charter of the United Nations, affirms the rights of the people to self-determination and the need for scrupulous respect for the principle of refraining in international relations from the threat or use of force. The right to self-determination is further enshrined in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and is paramount to the consideration of the overall situation of human rights in the Occupied Palestinian Territory, including East Jerusalem. The Human Rights Council, in its resolution 10/20, reaffirmed "the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and to establish their sovereign, independent, democratic and viable contiguous State".

31. The Special Committee believes that the failure to realize this right compromises the possibility for the full respect for and protection and fulfilment of the rights of the Palestinian people. The ongoing policy of fragmentation of the occupied territories, including the complete isolation of the West Bank from Gaza, the fragmentation of West Bank communities, the ongoing expansion of Israeli territory through the construction of the wall and the increase of settlements, continues to dramatically affect the territorial contiguity and social fabric of the Palestinian people and is in violation of international law.

32. Many human rights experts and witnesses described Israeli Government actions in Gaza and the West Bank, including East Jerusalem, as being systematically discriminatory and, in general, as denying the right of the Palestinian population to live in safety and with dignity. The Special Committee already noted article 33 of the Fourth Geneva Convention prohibiting the application of measures that may lead to collective punishment. Even though the Israeli army declared the withdrawal of its troops from the Gaza Strip in 2005, it continues to deploy along the border with Gaza and within Gaza's "buffer zone", which, since 2007, has increased from 17 to 24 per cent of the Gaza territory. Israel's control of the border, including aerial and maritime, allows it full control over the movement of people and materials from and into Gaza. Israel limits fishing for Palestinian fishermen to within three nautical miles of the coast of Gaza.

Settlements

33. In paragraph 120 of its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, of 9 July 2004, the International Court of Justice concluded "that Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law".[14] The transfer of its own population by the occupying Power into the occupied territory is prohibited by article 49, paragraph 6, of the Fourth Geneva Convention, which stipulates that: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."[3] More recently, the Human Rights Council, in resolution 10/L.5 of 20 March 2009, deplored Israel's construction of new housing units for Israeli settlers in East Jerusalem, as they undermine the peace process and the creation of a Palestinian State, and are in violation of international law and pledges made by Israel at the Annapolis Conference of 27 November 2007.

34. The Special Committee reviewed various maps showing the expansion of settlements in the West Bank, in particular East Jerusalem. The Palestinian Central Bureau of Statistics recorded an increase of almost 2.3 per cent in the number of settlers from January to June 2009.

35. The Special Committee was informed of Israeli plans to build 50,000 new housing units in East Jerusalem in the next 10 years, which would inevitably require the demolition of Palestinian houses and de facto separate Palestinian residential areas of East Jerusalem into two disconnected parts. This, in the view of many Palestinians and informed observers, is intended to hamper the ability of the Palestinian authorities to lay claims on East Jerusalem as its capital. Describing the settlement activity in Jerusalem's neighbourhood of Sheikh Jarrah near the Old City,

[14] See A/ES-10/273.

the Office for the Coordination of Humanitarian Affairs wrote the following: "[i]n a number of cases, property expropriated by the Israeli authorities through a complex system of legal, administrative and institutional mechanisms has been leased or transferred to settler organizations. In other cases, settler organizations have made use of the Israeli legal system to lay claim to property allegedly owned by Jewish individuals or associations in the occupied territory prior to 1948. Israeli courts have ruled in favour of such claims while failing to recognize the rights of Palestinian refugees to reclaim lost land and property".[15]

36. Since the occupation of 1967, Israel has integrated East Jerusalem into the Jerusalem municipality and reportedly expropriated over one third of East Jerusalem for the construction of Israeli settlements, destroying in the process many Palestinian homes. Only 13 per cent of the annexed area is currently zoned by the Israeli authorities for Palestinian construction, within which Palestinians have the possibility of obtaining a building permit. However, much of this land is already built up, the permitted construction density is limited and the application process is complicated and expensive.[16]

37. The expansion of Israeli settlements into the West Bank continued throughout the reporting period. According to the Office for the Coordination of Humanitarian Affairs, in the first six months of 2009, there was a monthly average of 27 demolitions and 53 people displaced in Area C, comprising roughly 40 per cent of the West Bank territory, which is 29 and 26 per cent higher, respectively, than the 2008 monthly averages.[17]

38. From August 2008 to July 2009, 755 square metres were added to the total area of Israeli settlements in the West Bank, with 85 per cent of the expansion taking place in 79 settlements that fall behind the wall. Some organizations reported that during 2009 several new outposts were created that will be, at a later stage, developed into new settlements. The Committee also received reports of the Israeli confiscation of 139,000 dunums[18] of land along the Dead Sea, reportedly intended to deny the Palestinian Authority control over the area, which has historical significance and the potential for tourism.

Settler violence

39. Reports received by the Special Committee indicate that, with the expansion of settlements, the tension and violence in the areas in and around Israeli settlements increased. The Committee is concerned about the reports that Israeli authorities take attacks by Israeli settlers lightly, failing to prevent and stop the attacks or prosecute the perpetrators. The Committee received detailed accounts of some incidents of vandalism of Palestinian property in the West Bank. The Office for the Coordination of Humanitarian Affairs recorded 188 of such incidents in 2009.[18]

40. Farmers report frequent harassment, physical attacks or threats to personal integrity by settlers or Israeli soldiers while working on their lands, as well as the

[15] Office for the Coordination of Humanitarian Affairs: Fact sheet, Sheikh Jarrah, August 2009.

[16] Office for the Coordination of Humanitarian Affairs Special Focus, April 2009.

[17] The Israeli Government maintains military and civilian control over so-called Area C of the West Bank, where 319 Palestinians, including 167 children, were displaced and 392 people, including 254 children, affected by demolitions between January and July 2009. OCHA: Sheikh Jarrah, 15 August, 2009.

[18] One dunum equals 1,000 square metres or 10,764 square feet.

burning or destruction of farms or theft of olives. Incidents are particularly common during the olive harvest in October.

41. Settler-related attacks are reported to be particularly common in the areas around Nablus and Hebron, both of which have experienced significant and rapid expansion of Israeli settlements. Children and women are particularly exposed to violence, as they often appear as the most vulnerable and are frequently alone during the day. The Special Committee heard numerous testimonies of women being targeted by settlers, having their property and houses vandalized while inside their homes, being hit by rocks, fired at, beaten or verbally abused. The attacks frequently occur in the presence of the Israeli army. The Committee was told that a vast majority of these incidents are unreported owing to the lack of trust in the Israeli justice system.

House demolitions

42. Israeli authorities continue to demolish Palestinian houses in many areas of the West Bank and East Jerusalem, citing illegal construction, overt proximity to the wall or various urban planning regulations, even though many demolished houses predate the creation of the State of Israel and have been in place for hundreds of years. Obtaining the deeds of an existing house or a construction permit for a Palestinian is lengthy, costly and often sufficiently complicated to be discouraging. In many cases, however, Palestinians are denied construction permits on the grounds that the urban planning policy is unknown, or is known and does not permit the construction of residential premises but is earmarked for parks or similar communal structures. Some Palestinians recounted how their land was seized to make way for a community park or green area that, at a later stage, became an Israeli settlement. Most Palestinians are therefore left with no choice but to build without a licence.

43. Since the beginning of 2009, the Office for the Coordination of Humanitarian Affairs recorded 221 demolitions in the West Bank leading to the direct displacement of 513 Palestinians, while an additional 838 Palestinian homes received demolition orders. Some estimates show that another 8,000 houses may be served demolition orders, which would displace 60,000 Palestinians. UNRWA reported that in one case of eviction of Palestinian refugees in August 2009, "the evicted families' belongings were loaded onto trucks and dumped at the edge of a busy Jerusalem road".[19] Entire communities both in Jerusalem and other cities, such as Nablus, are said to be at risk of eviction. The Jerusalem Municipality allegedly allocates $1 million each year to the demolition of houses.

44. In August 2009 alone, 84 Palestinian houses were bulldozed and their families displaced. In a joint communiqué issued after its June meeting, the Quartet[20] called on Israel "to refrain from provocative actions in East Jerusalem, including home demolition and evictions".

[19] See Department of Public Information, United Nations News service: "UN Envoy speaks out against Israel's 'unacceptable' evictions of Palestinians" (3 August 2009).

[20] The Quartet on the Middle East was created in 2002 and is represented by the United Nations, the United States of America, the European Union and the Russian Federation.

The wall

45. Five years after the International Court of Justice rendered its advisory opinion on the legal consequences of the construction of a wall in the Occupied Palestinian Territory,[14] stating that the route of the wall in the West Bank, and its associated regime of permits and restrictions, was contrary to international law, construction of the wall continues. Approximately 200 kilometres of the wall's planned route of 705 kilometres has been reported as completed, with 86 per cent of it inside the West Bank, and not along the 1949 Green Line.[21]

46. Protests against the wall continue, with reports of casualties on the Palestinian side. Residents of two Palestinian villages in western Ramallah, Bil'in and Nil'in, submitted a petition to the Israeli High Court of Justice because the wall cut them off from their farmlands. In September 2007, the Israeli High Court ordered the State to re-route the wall in order to reduce the harm to Bil'in residents. The Court has since reviewed two proposals for alternative routes of the wall submitted by the Israeli authorities, both of which were rejected by the Court on the grounds that they give insufficient considerations for the humanitarian impact of the wall on the villagers. In the last rejection, the Court demanded that in the consideration for the route of the wall, only the security needs of the neighbouring Israeli settlement of Modi'in Illit, and not the needs of a planned expansion area, should be taken into consideration. It is the view of many witnesses, Israeli and Palestinian alike, that the route of the wall was not based on security considerations, but to perpetuate and expand the settlements, foreclose the Palestinian State and ensure lasting Israeli control over the areas of the West Bank.[22]

B. Right to freedom of movement and freedom to choose one's residence

Checkpoints, roadblocks, the permit system and other obstacles to movement

47. The right to freedom of movement and to choose one's residence continues to be severely restricted in all parts of the occupied territories. According to various reports, the granting of residency permits for the West Bank and Jerusalem by Israeli authorities is designed to discourage the settlement of Palestinians in those areas. The Special Committee was informed that Israeli authorities routinely refuse to grant residency rights to residents of Gaza married to Palestinians in the West Bank. The same is apparently denied to Palestinians wishing to settle in East Jerusalem on the grounds of marriage. Palestinians residing in East Jerusalem are considered "residents" whose status can be revoked by the Israeli Ministry of the Interior at any time.

48. Reports suggest the increase in closure obstacles from 607 in April 2008[23] to between 634 and 668 in 2009, with some 93 staffed checkpoints.[24] The internal

[21] See A/HRC/12/37; see also, Office for the Coordination of Humanitarian Affairs, the Humanitarian Monitor, July 2009.

[22] Office for the Coordination of Humanitarian Affairs, the Humanitarian Monitor, July 2009.

[23] Office for the Coordination of Humanitarian Affairs Closure Update, May 2008.

[24] In 2009, the Israeli authorities reportedly removed a number of checkpoints on the Palestinian access routes into four main cities: Nablus, Hebron, Tulkarem and Ramallah; the removal of these checkpoints seems to be followed by the establishment of even more checkpoints elsewhere.

closure regime also includes random or "flying" checkpoints and the wall, as well as administrative and legislative measures that include the formal annexation of territory to Israel, the declaration of areas as "closed military zones", prohibition of the use of roads, prohibition, on the basis of age or sex, on moving through checkpoints, and time limitations on the opening of checkpoints and curfews. The implementation is often random, thus making the regime unpredictable and the impact on Palestinian lives immeasurable. Witnesses presented detailed maps of the West Bank criss-crossed with various forms of movement control, of movement which constitutes an indispensable part of Palestinians' lives in the West Bank. As in previous years, the Special Committee was told that males between the ages of 16 and 35 are virtually unable to leave cities in the northern West Bank.

49. In an operational update report covering the period April to June 2009, ICRC described the situation in the following terms: "It is often difficult for farmers who own land between the West Bank barrier and the Green Line (the 1949 armistice line) to gain access to it. They can be barred from working their fields or tending to their olive groves as Israeli-controlled gates through the barrier are seldom open. Each year, precious crops are also lost when fires break out and farmers are not able to get to their land to extinguish them".[25] Farmers are subjected to limited and arbitrary opening hours and waiting periods at gates through which Palestinians have to pass in order to access their land, as well as to obstacles involved in obtaining a "permit". Many have difficulties in obtaining permits to farm their own land because of tightened eligibility requirements. A limited number of farmers (20 per cent) who used to farm the land in the "seam zone" (zone between the 1949 Green Line and the wall) before completion of the barrier have received "visitor" permits. Multiple refusals are discouraging farmers from re-applying.

50. Also, the freedom of movement is significantly obstructed by a network of roads in the West Bank which links settlements to each other and to Israel and is off limits to Palestinians. The prohibition of access to key arteries, within the West Bank, is severely impacting on the freedom of movement of Palestinians. The Special Committee reported in its report last year (A/63/273) on the closing of Highway 443 to all cars with Palestinian license plates. All access roads to the Highway, which connects six Palestinian villages with the population of some 25,000 people to Ramallah, are blocked. The villages submitted a petition against this prohibition to the Israeli High Court of Justice, which issued an interim decision in March 2008, giving the State six months to report progress on the construction of an alternative road for Palestinians, but failed to address the question of the legality of the prohibition of the use of a road based on nationality criteria.

51. While freedom of movement, as stipulated in article 12 of the International Covenant on Civil and Political Rights, is subject to permissible limitations, such restrictions are subject to strict requirements. The arbitrariness and methods used in the implementation of movement restrictions, among others, are in clear contravention of the above obligations. The Special Committee heard several accounts of the difficulties faced by the population of the area affected by the wall in reaching schools, health services and workplaces. The effects of the wall are particularly devastating in occupied East Jerusalem. The impact of obstructions on

[25] See International Committee of the Red Cross (ICRC): Operational update — ICRC activities in Israel, the occupied and autonomous territories: April-June 2009.

specific rights other than the right to freedom of movement is detailed in the subsequent chapters of this report.

52. Many witnesses spoke of the humiliating procedures at checkpoints, noting that such procedures particularly affect women, especially as they fear being subjected to strip searches. According to the High Commissioner for Human Rights, the obstacles to freedom of movement has immense negative effects on expectant mothers, leading to an estimated 2,500 births per years being affected by delays or the inability to access adequate medical care. The risks presented by checkpoints, road closures and other obstacles are reported to have led to an 8.2 per cent increase in home deliveries, further compounding the risk to women's health and to their babies.[26]

53. Some witnesses expressed their concern that the measures on movement control limit their ability and right to worship or assemble in connection with a religion or belief. In the old city of Hebron, there are some 600 settlers living in close proximity to 30,000 Palestinians. The Israeli authorities have imposed tight security measures and have set up many checkpoints in this area of the city, where the Cave of the Patriarchs, an important place of worship for both Jews and Muslims, is located. A number of roads are closed to the Palestinians, and they are not allowed to bring cars into the areas where they live.[27] Access is also restricted to Muslims without special authorization to the third holiest Muslim shrine — Al-Aqsa Mosque in Jerusalem.

C. Right to an adequate standard of living, including adequate food, clothing and housing

54. The right to an adequate standard of living in the occupied territory is greatly impacted by the ongoing occupation, while in Gaza the situation has further deteriorated drastically as a result of Operation Cast Lead. Years of sanctions, blockade, the tightening security measures, the separation of communities, including the separation of communities from their farmlands, displacement and insecurity invariably affect all aspects of life and increase the already high dependence on international assistance. The situation became critical with the fuel and electricity crisis impeding basic services and impacting on the water and sewage system. In Gaza, some 85 per cent of the population continues to rely on food aid.

55. The Gaza Strip is currently experiencing blackouts of 6 to 8 hours, five days a week. Public services are severely affected, with regular access to running water for the entire Gaza population limited to 6 to 8 hours from one to four days a week. In addition, approximately 80 million litres of partially treated sewage are being discharged daily into the environment, owing to the high frequency of power cuts and the lack of diesel and spare parts in Gaza.

56. Limited access to services and basic goods were described as major factors of socio-economic deterioration and forced displacement of the Palestinian population in the West Bank. Unemployment in the West Bank is estimated at 26 per cent. The

[26] See A/HRC/10/35.

[27] ICRC: West Bank: illegal settlements cause hardship for Palestinians (an interview with the head of the ICRC office in Hebron since September 2007).

last available data indicate that in 2007 poverty levels in Gaza were estimated at 80 per cent of households, as compared with 45 per cent in the West Bank.[28]

Right to adequate housing

57. The situation affecting the Palestinian right to adequate housing has been described above in paragraphs 42 to 44, noting that the Israeli policy of awarding construction permits or property ownership papers appear to be systematically discriminatory in that Palestinians are frequently refused permits under various justifications. One informed source spoke of instances when a permit for the construction of a house was refused because the land (owned by a Palestinian family) was allegedly located on what was meant to be "a green area", even though there seemed to be very little greenery on the land in question.

58. Reference has been made in this report to many demolitions in East Jerusalem, the areas of the West Bank with increased settlement activity, the areas adjacent to the Dead Sea and other areas where the Israeli authorities may have deemed such measures necessary for security reasons. Since 1967 some 24,000 Palestinian homes have been destroyed for various reasons, including security, illegal construction, urban planning, the wall (either because the houses were on the route of the wall or "too close" to it), and the construction of roads, including roads for use by Palestinians. The destruction of 24,000 homes rendered some 60,000 people homeless.

59. In addition to the displacement owing to housing demolition in the West Bank, including East Jerusalem, the combined report by 10 special rapporteurs noted (A/HRC/10/22), in the section by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, that an estimated 80,000 to 90,000 people were rendered homeless by Operation Cast Lead, and that the massive destruction and damage caused by the Israeli offensive to homes and infrastructure, including roads, water stations and electrical facilities, and the continued restrictions imposed on the urgent transport of reconstruction materials into Gaza could constitute grave violations of the right to adequate housing and are the source of a severe humanitarian crisis.

Right to food

60. In its General Comment 12 of 1999, the Committee on Economic, Social and Cultural Rights defined the right to adequate food as follows: "The Committee affirms that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights. It is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all".[29]

61. Estimates are that approximately 1.1 million people, or some 75 per cent of the population of Gaza, suffer from food insecurity, up from 56 per cent in the first quarter of 2008. The right to food and food security was particularly affected by the

[28] World Bank Group report, 29 April 2009.

[29] See E/C.12/1999/5.

recent Israeli military operation, during which some 20 per cent of agricultural lands were reported to have been destroyed. This was in addition to the three years of sanctions, which led to rapidly rising inflation in prices of key food items and to an increase in the overall vulnerability of the Gaza population.

62. The Office for the Coordination of Humanitarian Affairs reported a gradual shift in the diet of Gazans from high-cost and protein-rich foods such as fruit, vegetables and animal products, to low-cost and high carbohydrate foods such as cereals, sugar and oil, which can lead to micro-nutrient deficiencies, particularly among children and pregnant women.[30] It is estimated that some 22 per cent of children in Gaza are anaemic.

63. The Special Committee is concerned that the blockade of Gaza, and severe movement controls in the West Bank impede the Palestinian right to adequate food. The Committee reminds Israel of its obligations as an occupying Power, noting in particular the following requirement: "To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate".[31]

Right to water

64. In 2000, the Committee on Economic, Social and Cultural Rights recognized the right to health as an exclusive right that includes not only timely and appropriate health care, but also to factors that determine good health, such as access to safe drinking water and adequate sanitation. Two years later, the Committee expanded its view on the right to water, stating in its General Comment 15 that: "The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival".[32]

65. According to the information made available to the Special Committee, many Palestinian villages suffer from inadequate water supply and have to buy it from Israel or other Palestinian villages. Various reports received by the Committee allege the current distribution ratio to be one cubic metre of water available for a Palestinian and nine for an Israeli household.

66. The dramatic deterioration of the humanitarian situation in the Gaza Strip, including the lack of wastewater treatment plants, has led to wastewater pollution. The deterioration of the water and sewage system has been one of the direct impacts of the import restrictions, the reduction of fuel supplies and the lack of spare parts.

D. Right to work and right to just and favourable conditions of work

67. The recent war and the years of blockade and isolation of Gaza, the occupation and movement control in the West Bank, including East Jerusalem, inevitably infringe on the enjoyment of the Palestinian right to work and the right to just and favourable conditions of work. At the 98th session of the International Labour

[30] Office for the Coordination of Humanitarian Affairs Special Focus Report "Locked In: The humanitarian impact of two years of blockade on the Gaza Strip", August 2009.

[31] Fourth Geneva Convention, article 55.

[32] See E/C.12/2002/11.

Conference in Geneva, the International Labour Organization presented a report on the situation of workers of the occupied Arab territories, including Gaza, the West Bank and occupied Golan, and summarized its findings as follows: "Plans for the reconstruction of Gaza are at standstill, pending minimal progress on negotiations to facilitate access and movement of goods, which in turn depends on a much-needed reconciliation among Palestinian political leaders. The longer the complete closure of Gaza lasts, the more acute the sense of 'collective punishment' of its people — a feeling shared by Palestinians in the occupied Arab territories. In East Jerusalem, the Arab population is subject to increasing pressures on dwellings, habitat, residency rights and, consequently, jobs and livelihoods. East Jerusalem has been basically cut off from its social, economic and political context in the West Bank".[33]

68. The report further acknowledges some improvement in the situation of workers and families in the West Bank owing to slight improvement in security and economic activity, but adds that "this lull has not been able to halt, much less reverse, the decline in average incomes and the grim employment outlook. Closure measures, including the Separation Wall and intensified settlement activity in occupied territory, have kept a tight lid on any economic shoots that might appear".[33]

69. In its 2009 report on the humanitarian impact of two years of blockade on the Gaza Strip, the Office for the Coordination of Humanitarian Affairs noted that the already weakened economy of Gaza has drastically deteriorated during the past two years. According to the Palestinian Central Bureau of Statistics, in the first quarter of 2009, over 140,000 Gazans of work age were unemployed, or 41.5 per cent of the workforce of Gaza, up from 32.3 per cent in the second quarter of 2007. The Office for the Coordination of Humanitarian Affairs has also noted that the official unemployment rate of 60 per cent among those 30 years of age and younger may be even higher, as the Palestinian Central Bureau of Statistics classifies workers who were not formally laid off, but do not work and do not receive salaries as "temporarily absent employees", rather than as "unemployed".[30] The blockade has directly resulted in the closing of 120,000 private sector jobs and the complete shut-down of about 96 per cent of industrial operations, factories and workshops.

E. Right to health

70. The Special Committee is particularly concerned about the health situation in Gaza, noting that the destruction of many existing medical facilities during the Israeli offensive earlier this year compounded by the Israeli blockade and sanctions that allow only a very limited amount of medicine into Gaza is likely to, if it has not already, lead to unprecedented suffering by the population. The Committee therefore calls on Israel to take immediate steps to ease the sanctions against Gaza, and, as a first measure, allow all necessary medical and other shipments into Gaza.

71. For many patients in Gaza, there is no adequate health care, and most are required, but mostly unable, to seek medical help outside of Gaza. In the aftermath of Operation Cast Lead on Gaza, the World Health Organization (WHO) estimated that 48 per cent of the total of 122 health facilities were either damaged or

[33] International Labour Conference, 98th session, report of the Director-General, appendix, *The situation of workers of the occupied Arab territories*, p. iii.

destroyed, with 15 hospitals and 41 primary health-care centres partially damaged, 2 primary health-care centres destroyed and 29 ambulances partially damaged and destroyed.[34] Many health facilities lack basic equipment, such as X-ray machines, and those that are broken cannot be repaired because of the sanctions. In Shifa hospital, the dialysis equipment has been out of order for some time owing to the inability to import necessary spare parts, impacting some 200 children. Health organizations are only given access to Gaza on sporadic and inconsistent basis.

72. The sanctions are affecting the development of medical expertise, as medical professionals are said to be frequently denied permits to leave Gaza to attend professional seminars and courses. Patients requesting medical treatments are denied entry visas into Jerusalem, even when the treatment has been approved in one of Israeli hospitals. The witnesses reported on cases when the patients crossing into Israel were interrogated at checkpoints, being asked to report on Hamas, political leaders, and other issues that made many patients highly uncomfortable. One witness recounted how a relative of his, a cancer patient, died, after being denied a permit to leave following his refusal to submit to questioning concerning the political leadership of Gaza. Health organizations recorded the cases of children being denied entry into Israel to receive medical treatment because their parents or guardians could not obtain the necessary permits. If a patient is a member of Hamas, the permit is normally denied. The aid, according to health organizations, is frequently out of date by the time it reaches Gaza.

73. The Special Committee also heard testimonies on trauma and psychological effects of the war on Palestinians following the Israeli offensive on Gaza, and heard disturbing testimonies collected by Palestinian organizations on the psychosocial problems and post-traumatic syndrome developed by children who had witnessed the killing of their family members and the destruction of their homes.

F. Right to education

74. The right to education in the occupied Palestinian territories continues to be seriously affected by the occupation and its many security measures. Children are frequent victims of violence. They are often required to queue at checkpoints in order to reach the school, they can be arrested, or their teachers, parents or family members can be arrested. All of this affects their rights, including their right to education. The Special Committee was told of a school in the Qalqiliya Governorate, which is surrounded by the wall, and because of its location, the students are subjected to searches every day on the way to and from school. This has allegedly led some of them to drop out of school. In Hebron, with 400 settlers and numerous instances of violence directed at the Palestinians, parents are very concerned about the safety of their children while at school.

75. One of the national organizations recorded that 420 students have been arrested since 2003 and that there are 83 students in Israeli detention. Since all student associations are considered illegal under Israeli law, as many as 43 out of 83 detained students are reported to have been charged with membership in illegal organizations. Both the President and Vice-President of the Birzeit University Student Association were arrested in the course of the last year. Students often are

[34] World Health Organization update: Health situation in Gaza, 4 February 2009.

arrested and held under administrative detention for six months or longer. Under administrative detention, the defendants are not informed of charges against them, and thus are unable to meaningfully defend themselves.

76. Education is also frequently disrupted. Birzeit University was closed 15 times on Israeli military orders — the longest period being 1988-1992, when all 11 Palestinian universities were closed but continued to hold classes informally in community centres and mosques. During the reporting period, the University began to face additional challenges of retaining the students from other parts of the occupied territories, in particular Gaza and the north and south part of the West Bank, who are unable to obtain from Israeli authorities the necessary permits to study at Birzeit University. Palestinian schools and universities recorded a drop of 60 per cent of foreign lecturers in the past year owing to the Israeli policy of denying visas to foreign experts.

G. Right to life

77. The inherent right to life is the most fundamental of all rights and is protected by a number of international legal instruments to which Israel is a party. As occupying Power, Israel has the obligation to ensure the protection of this right in the occupied territories. The Special Committee considers Gaza to be an occupied territory, considering that Israel exercises full and effective control over the territory of Gaza, controls the borders of Gaza, including the maritime and air border, as well as the movement of population and goods in and out of Gaza, controls the infrastructure, including radio and TV frequencies, maintains a presence in the buffer zone inside the border of Gaza, and exercises the right to militarily intervene, as it did in December 2008 and January 2009.

78. Under international law, specifically article 43 of the 1907 Hague Regulations states: "[t]he authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country". Article 46 of the 1907 Hague Regulations also states: "[f]amily honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated".

79. As stated earlier in this report, Israel continues to engage in military activities in Gaza and other occupied territories that inevitably result in casualties among the Palestinian civilian population. The Office for the Coordination of Humanitarian Affairs has recorded that since the end of Operation Cast Lead on 18 January 2009, 38 Palestinians and three Israelis have been killed in Gaza and southern Israel as a result of the hostilities between IDF and Hamas.[22] In Gaza, the United Nations Children's Fund (UNICEF) estimated that children accounted for roughly a third of the dead and wounded resulting from Israeli Operation Cast Lead. According to UNICEF, 431 children were killed and 1,872 children injured, of whom 560 sustained severe injuries that without proper rehabilitation may result in permanent disability.[35]

[35] United Nations Children's Fund, At a glance: Occupied Palestinian Territory.

H. Right to liberty and security of person

80. Israel continues to detain Palestinians under the administrative detention regime that allows military commanders to detain an individual for six months, subject to further approvals and reviews. For reasons of "public security", Israeli authorities may extend the detention for six months, and since Israeli law does not define a maximum period of detention, administrative detainees may, in theory, remain in detention indefinitely.

81. The Special Committee was informed that, currently, there are about 8,400 Palestinians detained in Israeli prisons and detention centres, of whom 61 are women and 431 children. Detainees are held in isolation throughout the interrogation process. According to organizations that provide legal assistance to Palestinian detainees or work to document Israeli detention practices, detention conditions are reported to have a disorienting, isolating and humiliating effect on detainees. Those who are brought before Israeli military courts are reported in some cases to have been brought before a military judge shackled and with their eyes covered. Lacking in such cases awareness that the judge is not an interrogator, this process naturally affects the ability of the accused to exercise his rights as an accused person.

82. The Special Committee is very concerned about reports of ill treatment and physical abuse applied in Israeli detention. In particular, the Committee is concerned that the interrogation and detention of security suspects is designed to humiliate the prisoners and that incommunicado detention may give rise to ill treatment and torture contrary to customary international law and Israel's obligations under international human rights law.

83. As stated earlier in the report, the Special Committee is also concerned about the situation affecting detained Palestinian children and juveniles, and it calls on Israel to respect its obligations under the Convention on the Rights of the Child, which was ratified by Israel in 1991. The Committee heard testimony regarding the detention of children and juveniles on charges of throwing stones at Israeli military personnel and installations, including at the wall. The Committee was presented with testimony on the minors who were shot and wounded by IDF personnel while throwing stones. They were brought to a hospital for treatment and, from there, arrested on charges of disturbing public order. According to one testimony, 40 per cent of the 362 detained children have been charged with throwing stones.

VI. Situation of human rights in the occupied Syrian Golan

84. The Special Committee met a number of witnesses from the occupied Syrian Golan from those who currently reside outside the occupied Golan. The Committee conducted a mission to the Syrian Arab Republic from 11 to 13 August 2009. It visited the Syrian Golan and heard the testimony of six witnesses pertaining to the situation in the occupied Golan. Regrettably, the Committee was unable to visit the occupied Golan as it received no response from the Israeli Government to its request of 4 May 2009 for full access to the occupied territories, and that it be given the opportunity to hold direct consultations with concerned Israeli authorities on the human rights situation in the occupied territories, with a view of drafting an accurate and comprehensive report to submit to the General Assembly.

A. Past legacy

85. The Syrian Golan was occupied by Israel during the 1967 Arab-Israeli conflict. In 1981, Israel passed the Golan Heights Law, which extended Israeli law and administration and thus annexed the entire Israeli controlled territory of Golan. Israel therefore considers the Golan an annexed and not an occupied territory, a claim that is not recognized by the Security Council or the Syrian Arab Republic.

86. The Security Council, in its resolution 497 (1981), decided that the Israeli decision to impose its laws, jurisdiction and administration in the Syrian Golan was null and void. The General Assembly, in its resolution 63/99 of 5 December 2008, recalled resolution 497 (1981) and called upon Israel to comply with the relevant resolutions on the occupied Syrian Golan, in particular resolution 497 (1981).

B. Human rights situation in the occupied Syrian Golan

87. In 2009, the Human Rights Council adopted two resolutions relevant for the situation in the occupied Golan. Its resolution 10/17, of 26 March 2009, reaffirms the illegality of Israel's decision to impose its laws, jurisdiction and administration on the occupied Syrian Golan, and reaffirms the principle of the inadmissibility of the acquisition of territory by force in accordance with the Charter of the United Nations and the principles of international law. In the resolution the Council also notes with deep concern "the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/63/401), in which the Committee referred to the grave deterioration of the human rights situation in the occupied Syrian Golan and, in this connection, deploring the Israeli settlement in the occupied Arab territories and expressing regret at the constant refusal of Israel to cooperate with and to receive the Special Committee".

88. On the same day, the Human Rights Council adopted another resolution on the Israeli settlements in the occupied Palestinian territory, including East Jerusalem and in the occupied Syrian Golan — resolution 10/18 — calling on Israel to assume all responsibilities under international law, in particular, the Fourth Geneva Convention and Additional Protocol I to the Geneva Conventions of 12 August 1949. The resolution reminded Israel that the transfer by the occupying Power of parts of its own population into the territory it occupied constituted a breach of the Fourth Geneva Convention and relevant provisions of customary law, including those codified in Additional Protocol I to the Geneva Convention of 12 August 1949.

89. The Special Committee heard testimony regarding the planned expansion of Israeli Jewish settlements in the Golan that currently comprise about 20,000 settlers living in 33 settlements that were built on the ruins of Syrian villages and towns.[36] Prior to the occupation of 1967, the population of Golan was 138,000 people in over 312 towns and villages. With the start of the occupation, 131,000 people were

[36] In its most recent report on the situation of workers of the occupied Arab territories, the International Labour Organization reported that on July 2007, the number of Israeli settlers was 17,300 (see International Labour Conference, 98th session, report of the Director-General, appendix: The situation of workers of the occupied Arab territories).

reported to have fled to the Syrian Arab Republic.[37] Today, there are only five Syrian villages with a total population of 20,000 in the northern Golan.

90. The Special Committee was informed that the number of settlers may continue to increase as a result of a policy that aims to attract at least 100 new Israeli Jewish settlers each year. To that end, Israeli authorities are reportedly building new infrastructure and factories and creating various other economic opportunities. Today, the economy in the Golan is reported to be dominated by Jewish settlers whose products, such as beef, apples, cherries, mineral water and wine, allegedly cover significant portion of the Israeli consumption needs. Approximately, 20 per cent of the Golan settlers' produce is exported to 20 countries, including the United States of America, Canada, Australia, European countries and others.

91. The Special Committee was also alerted of the situation concerning water distribution in the occupied Golan, where, according to witnesses, settlers receive unlimited quantities at a minimal cost, while the Arab farmers are charged double for a limited quantity of water made available to them. The Arab farmers reportedly receive one tenth of the water amount available to the settlers.

92. The Special Committee remains concerned about the civil and political rights of the Syrian and other Arab populations in the Golan. The Syrian Ministry of Foreign Affairs notified the Committee of a case of alleged house arrest imposed on a two-year-old child, Fahid Lu'ay Shuqeir, on the grounds that he was born outside occupied Golan, while his parents were studying in the Syrian Arab Republic. The Committee was informed, on a different occasion, that the child was, following a court petition by a human rights organization, granted the right to register as a resident of the village of Majdal Shams, after the initial refusal by the Israeli Ministry of the Interior. According to the information provided by the Syrian Ministry of Foreign Affairs, there are currently 10 Syrian detainees in Israeli prisons; one detainee was reportedly released the day of the visit of the Committee to the Syrian Arab Republic. The Ministry officials expressed concerns that the detainees may not receive adequate medical care, and are detained in contravention to international law and standard minimum rules for the treatment of prisoners.

93. The Special Committee also heard the testimony pertaining to the pressure on the Syrian residents of the occupied Golan and the difficulties faced by the Arab Golan residents to find adequate employment. It was informed of measures following a strike in protest of the Israeli annexation of the Syrian Golan in 1981, in which a number of Syrians lost their jobs and have been unable to regain any meaningful employment since. Referring to the right to livelihood by the Syrian Arabs in the occupied Golan, the annual report of the International Labour Organization noted that: "The Syrian citizens living in the occupied Syrian Golan face serious obstacles in pursuing their livelihoods and occupations. Having traditionally relied on agricultural activities, particularly fruit cultivation, they are severely constrained by Israeli measures and policies restricting their access to land and water. Discriminatory water quotas and tariff schemes favour Israeli settlers."[38] Moreover, the report noted that "[t]he Syrian citizens of the occupied Syrian Golan suffer from a lack of employment opportunities in their communities, with no prospects for economic development for the region. For many, employment in

[37] Some 2,000 displaced Syrians sought refuge and remain in the village of Mas'ada after their village was destroyed.

Israel, primarily in the construction sector, remains the only option. [...] The absence of employment opportunities in the occupied Syrian Golan particularly affects women, whose occupations and regional mobility is especially restricted."[16]

94. The Syrian Ministry of Foreign Affairs further noted in its report to the Special Committee concerns regarding the imposition of an Israeli curriculum on Arab schools, as well as the lack of investment in Arab educational facilities leading to chronic overcrowding and the dilapidated state of its institutions. The Ministry officials also informed the Committee of the mine fields that continue to limit the movement of many Syrian citizens in the occupied territory and cause numerous casualties, including among children.

95. The Special Committee is also very concerned about the adverse effects on many separated families, who shared some of their distress with the Committee members during the field mission. It is grateful to the Syrian Ministry of Foreign Affairs for facilitating its access to the Syrian Golan, where the Committee gained a better understanding of how the families communicate with the help of megaphones across the mined separation line.

96. Finally, the Special Committee is concerned about the lack of access to the occupied Golan by the United Nations committees and agencies, as well as other relevant organizations, and calls on Israel to immediately reverse its policy of denying access. In the view of the Special Committee, it is in the interest of all Member States, including Israel, to cooperate fully with the United Nations and its bodies.

VII. Conclusions and recommendations

A. Conclusions

97. **The Special Committee has once again tried to comply with its mandate by collecting testimonies from relevant Palestinian, Israeli and Syrian witnesses, United Nations agencies and experts, and government officials. It has also collected and reviewed numerous relevant documents and maps, including many reports by the High Commissioner for Human Rights and the United Nations Secretary-General to the General Assembly and the Human Rights Council, weekly and other regular reports issued by the Office for the Coordination of Humanitarian Affairs in the occupied territories, experts' reports by the International Labour Organization, United Nations Children's Fund, Amnesty International, Human Rights Watch and many others. While these reports, and many excellent reports by Palestinian and Israeli national organizations, were of immense assistance in the research of the Committee, it is, nonetheless, essential that the Committee be given full and unimpeded access to the occupied territories in order to be able to provide a thorough and balanced account of the human rights situation in the occupied territories.**

98. **In this report, the Special Committee outlined some of its key findings pertaining to the civil, political, economic and cultural rights of the Palestinians and other Arabs under the Israeli occupation, as well as the obligations of Israel in its capacity as occupying Power. The Committee notes that Israel continues to engage in practices and policies that are discriminatory against the**

Palestinian and Arab populations, and that such conduct contravenes Israel's obligations under international human rights and humanitarian laws.

99. **The Special Committee is extremely concerned that, in the absence of viable peace plans, the current situation will lead to increased hardship for the Palestinian people brought about by the ongoing construction of the wall, increased movement controls, isolation, and the application of the arbitrary policy in granting residence permits and entry visas, as well as the continuing siege of Gaza. The Committee considers Israeli actions as "collective punishment" and notes that such action is prohibited. The Committee is further of the view that it is in the interest of all parties to the conflict, including Israel, to ensure that their conduct promotes and respects all human rights and the rule of law and does not create conditions that encourage more violence and aggression. The Committee also calls on Israel to comply with the resolutions of the General Assembly and the Human Rights Council, in addition to the advisory opinion on the legal consequences of the construction of a wall in the Occupied Palestinian Territory rendered by the International Court of Justice in July 2004.**

100. **The Special Committee is similarly concerned that the present situation in the Gaza Strip has reached the level of a humanitarian catastrophe, particularly in terms of the inadequate availability of medicine and medical treatment and construction and building materials. It is imperative that Israel immediately open the borders to all humanitarian assistance and immediately cease its policy of "collective punishment" of the entire population of Gaza, which has impacted adversely the more vulnerable and those with special needs, such as children, expectant mothers, the elderly and the sick.**

101. **Finally, the Special Committee reiterates that Israel's policy of annexation of parts of the West Bank, including East Jerusalem, and of the Syrian Golan are in contravention of its obligations as the occupying Power under the Hague Convention concerning the Laws and Customs of War on Land and its annexed Regulations respecting the Laws and Customs of War on Land (Hague Regulations) of 18 October 1907; the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949; article 75 of the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflict (Protocol I), and rules of customary international law. Israel and the international community, as Member States of the United Nations and as States parties to core international human rights treaties, have an obligation to ensure the realization of the human rights of the Palestinian people, including the population of Gaza, not as a matter of humanitarian charity, but as a matter of Palestinian rights and corresponding obligations by all concerned.**

B. Recommendations

102. **The Special Committee wishes to make the following recommendations:**

(a) The General Assembly should:

(i) Consider all means at its disposal to enable the Special Committee to fulfil its responsibilities under the mandate set out in resolution

2443 (XXIII) and all subsequent resolutions, including the access to the territories occupied by Israel since 1967;

(ii) Urge the Security Council to ensure the implementation of the advisory opinion of the International Court of Justice and General Assembly resolution ES-10/15, in which the Assembly requested Israel to comply with its legal obligation to cease the construction of the wall in the occupied Palestinian territory, including in and around East Jerusalem; to dismantle the segments of the wall already built; to repeal all legislative and regulatory acts adopted in view of the construction of the wall; and to make reparation for the damage arising from the construction of the wall;

(iii) Urge the Security Council and Member States to enforce Security Council resolution 497 (1981) and similar relevant resolutions on the status of the occupied territories, including the occupied Syrian Golan, that declared the annexation of the occupied territories illegal;

(iv) Urge the Member States of the United Nations to implement the recommendations of the Special Committee, and intensify diplomatic efforts including the imposition of appropriate sanctions to enforce Israel's compliance with relevant United Nations resolutions, particularly Security Council resolutions, and international humanitarian and human rights law;

(v) Call for heightened and concerted international efforts to ensure the unimpeded flow of humanitarian assistance, particularly food, medicines, and construction materials to the besieged population of Gaza;

(vi) Request the High Contracting Parties to the Fourth Geneva Convention to take concrete measures in respect of their obligations to ensure respect for the Convention by Israel. A meeting of the High Contracting Parties to that effect should be convened urgently;

(b) The Government of Israel should:

(i) Recognize the de jure and de facto applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory and the occupied Syrian Golan and distinguish in all circumstances between military objectives and civilian persons and objects;

(ii) Ensure respect for international law and the principle of appropriate use of means and methods of warfare, and cease its policies of excessive use of force and extrajudicial killings of Palestinians, as well as the destruction of land, civilian and public property, houses and infrastructure;

(iii) Stop its policies of confiscating Palestinian land and of expanding Jewish settlements in the Occupied Palestinian Territory, which are contrary to international law and which threaten the contiguity of Palestinian lands, and ensure that Israeli forces protect Palestinian civilians and their property against violence by Israeli settlers, by carrying out prompt and thorough investigations and bringing to justice those deemed responsible;

(iv) **Restore freedom of movement for Palestinians throughout the Occupied Palestinian Territory by lifting closures, checkpoints, roadblocks and other obstacles to movement, and stop building roads accessible only to Israeli settlers and preventing access by Palestinians, in particular women and children, to their fields, schools, places of work, hospitals and other health-care facilities, as well as the passage of ambulances;**

(v) **End the closure and collective punishment of the people of Gaza, and take urgent steps to end the current man-made crisis and the suffering of the people of Gaza and deprivation of all their rights;**

(vi) **Cease construction of the wall in the Occupied Palestinian Territory, which hampers the achievement of a just and sustainable peace between Israel and the future Palestinian State, and comply fully with the provisions of the advisory opinion of the International Court of Justice and all provisions of General Assembly resolution ES-10/15;**

(vii) **Guarantee to those arrested a fair trial and detention conditions in accordance with the International Covenant on Civil and Political Rights, with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and with the Fourth Geneva Convention;**

(viii) **Urgently comply with resolution 497 (1981), which annuls the Israeli decision on the annexation of the occupied Syrian Golan, implement its obligations set forth in the road map and withdraw its military presence in the Occupied Palestinian Territory and its occupation of the Syrian Golan;**

(ix) **Implement the concluding observations and recommendations of United Nations treaty bodies and special procedures mechanisms, and implement the recommendations of the High Commissioner for Human Rights to the Human Rights Council;**

(x) **Establish an independent and transparent system of accountability that ensures prompt and impartial investigations, that perpetrators are brought to justice and that victims enjoy the right to an effective remedy;**

(c) **The Palestinian Authority should:**

(i) **Abide by the relevant provisions of human rights law and international humanitarian law;**

(ii) **Aim to resolve the urgent human rights and humanitarian crisis currently facing the Occupied Palestinian Territory, and to fully restore the rule of law in areas under its control.**

103. **The Special Committee urges concerned civil society groups and diplomatic, academic and research institutions to use their goodwill and influence to make widely known, by all available means, the current human rights and humanitarian situation in the occupied territories, including in the occupied Syrian Golan. The Special Committee commends and encourages the efforts of Israeli non-governmental organizations made on behalf of Palestinian human rights, and considers that the work of these organizations should receive greater recognition from Israeli civil society and relevant Israeli institutions.**

104. **All Governments concerned are urged to comply fully with article 1 of the Fourth Geneva Convention and with the international obligations outlined in the advisory opinion of the International Court of Justice of July 2004 and General Assembly resolution ES-10/15.**